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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/749,708

12/31/2003

Jacquelyn R. Simoni

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30223 7590 04/19/2005

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EXAMINER

TSO, LAURA K

ART UNIT

PAPER NUMBER

2875

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/749,708

Applicant(s)

SIMONI, JACQUELYN R.

Examiner

laura tso

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-22 and 24-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3, 12, 16, 25, 27 and 28 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-9, 11, 13-15, 17-22, 26, 29 and 30 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Objections

Claim 9 *remains* objected to because of the following informalities: Claim 9 should depend on claim 8 so that "band" has proper antecedent basis. Appropriate correction is required. **Appropriate correction is required.**

Claim 24 is objected to because of the following informalities: Claim 24 depends from a canceled claim. **Appropriate correction is required.**

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1, 2, 11, 14, 15 and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Zoller et al. (6,805,460).

Zoller discloses a collar flashlight for illuminating the area in front of the dog in dark conditions comprising a housing [106] containing an LED [102: column 6, line 54] light source and a battery power supply [160], and a switch [104] wherein the light source is of sufficient brightness to illuminate the area in front of the dog so that the dog owner can observe the illuminated area for control purposes [column 3, lines 39-48]. The housing [106] is attached to the neck of the dog by a band [column 5, lines 31-35] from which the housing is suspended so that the light source is located substantially below the snout of the dog [this is inherent in view of the location which Zoller describes as being lit]. The attachment inherently inhibits swinging [column 5, lines 46-49]. The claimed method is inherent in view of the device.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-9, 13, 17-22, 26, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zoller (6,805,460) et al.

Zoller does not disclose the area of illumination provided by his device. He does disclose "the light should be bright enough to illuminate the path before the animal wearing the dog collar flashlight, but not to bright as to detract from the visual perception of other adjacent objects. Preferably, the light does not destroy night vision" [column 3, lines 26+]. The "light [is] sufficient to perceive and visually detect items on the ground and adjacent the animal...[and]...allows the visual detection of objects illuminated by the light such as cracks in the sidewalk [and] obstacles in the patch of the dog" [column 3, line 39]. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the light illuminate any amount of space which meets with the above limitations including a length of 10 or 20 feet and a width of at least 5 feet to allow for visual detection of surrounding objects.

Zoller does not disclose the LED is a white LED. White LEDs are well known in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a white LED in the device of Zoller to provide an illumination that easily allows the user to detect and discern the objects illuminated by the device.

Zoller does not disclose that the housing is attached to an elastic band located below the collar of the dog. It would be obvious to one of ordinary skill in the art at the time the invention was made to place the housing on a elastic collar which hangs below the collar of the dog so that the device may be easily placed on and taken off the dog without taking of the dogs collar as it is necessary to keep collars with identification on dogs at all times.

Zoller does not disclose a hair guard extending around a portion of the housing to prevent the hair of the dog from blocking the light. It is the intention of Zoller that his device be used on dogs that normally have hair. In some breeds of dog, the hair can be quite long. Thus, it would be obvious to one of ordinary skill in the art at the time the invention was made to place a hair guard on the device of Zoller which extends around a portion of the housing to prevent the hair of the dog from blocking the light so that the area around the dog will, in fact, be illuminated.

Response to Amendment

The sample sent in was viewed.

In the remarks section of the Correspondence received 1/24/05, Applicant argues that Zoller does not disclose the housing is "suspended from the band so that the light source is located substantially below the snout of the dog so as to minimize blockage of light by the dogs snout. Applicant also states that the light of Zoller's device would be "directed onto the ground beneath the dogs snout". This is not true. For the device of Zoller's to work, a user must be able to see the light emanating from the housing when it is hanging about the neck of a dog. Since the user would not be located on the ground below the device, the device must direct a good amount of light forward. The hanging location would inherently be below the snout of the dog when the dog is looking forward as the head on which the snout is located is itself located above the neck. The amount of distance between the snout and the housing would be dependent on the length of the collar.

Applicant also argues the “dogs collar is attached to a leash which rotates with the collar... as the leash is manipulated to control the dog”. Applicant’s independent claim 1 does not prevent the illumination device from being attached to the collar. The examiner has rejected claims that recite a “band” as being obvious variants of the device of Zoller. The applicant has not argued the motivation to change Zoller.

Applicant also argues that Zoller does not disclose a hair guard. The examiner has rejected claims that recite a hair guard as being obvious variants of the device of Zoller. The applicant has not argued the motivation to change Zoller. Applicant has not disclosed any limitations, in the claims, of such the hair guard. Applicant should consider claim such limitation. No new matter should be entered.

Allowable Subject Matter

Claims 3, 12, 16, 25, 27 and 28 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Claims 3, 12, 16 and 25 are allowed for the reasons cited in the correspondence of 12/15/04.

With respect to claims 27 and 28, prior art fails to show or suggest a method or device for illuminating the area in front of the dog in dark conditions comprising a housing containing a light source, a battery power supply, a switch an attachment

device including a band for carrying the housing which surrounds the neck of the dog the attachment device having a first portion adapted for attachment to the band and a second portion attached to the housing, the first and second portion being pivotally connected to each other to permit adjustment of the elevation angle of the light beam.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

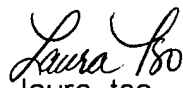
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to laura tso whose telephone number is 571-272-2385. The examiner can normally be reached on M-F 6:30-3:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, sandra o'shea can be reached on 571-272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



laura tso
Primary Examiner
Art Unit 2875